

# Permanency Planning Mediation Pilot Program

## Evaluation Final Report

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for  
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## Evaluation questions and findings

This report describes the exploratory, descriptive program evaluation of Michigan's Permanency Planning Mediation Pilot (PPMP) Program. The evaluation design is a retrospective, longitudinal investigation, including both process and outcome measures.

The evaluation was designed to address eight specific questions in addition to compiling lessons learned from this pioneering effort. Conclusions have been drawn from the evaluation results, based on a variety of information sources and data collection methods, including mediation case file reviews, public court file records, administrative data, satisfaction surveys, questionnaires and interviews.

1. **Does mediation have an effect on the time it takes for a child protection case to reach permanency in comparison to cases that are not mediated?** Mediation has a positive effect by decreasing the time it takes for a child protection case to reach permanency. The mediated cases achieved permanency in 17 months compared to the non-mediated case average of 29-1/2 months.
2. **Does mediation have an impact on parental compliance with the service plan?** The impact mediation has on increasing parental compliance is unclear at this time. Comparison data for service plan compliance was not available for either mediated or non-mediated referrals. Compliance with mediation agreements was high, in general. Child attendance at the mediation was related to lower rates of non-compliance with mediated agreements (10% when children attended, 22% when children had not been present).
3. **What are participant perceptions of the mediation process?** Participant perceptions of the mediation process are positive overall. The most positive participants are professionals, both attorney groups and child welfare/human services professionals, with total scores of 86 and 82.5 out of 100. Family member participants ratings were lower, with 75.1 out of 100, but still quite high given the involuntary nature of their involvement.
4. **Has mediation had any impact on the relationships of the stakeholders in the child welfare system?** Mediation has had a constructive impact on relationships between various child welfare system stakeholders in the majority of communities.
5. **Are there unanticipated outcomes of the mediation process?** No unanticipated negative outcomes of the mediation process were found. The high levels of participant response and satisfaction were the only unanticipated positive findings.
6. **Does the structure or procedures of the local program have an impact on outcomes?** Although not definitive, local pilot program structures and procedures do not appear to have a negative effect on permanency outcomes. Detailed interviews at each pilot program site support this conclusion. Achievement of outcomes and the types of outcomes did not differ significantly across sites.
7. **What is the perception of referral sources, primarily courts, on the impact of mediation?** Judges' perceptions of the impact of child protection mediation are mixed. Higher levels of experience corresponded to more positive endorsements of permanency planning mediation and better assessments of its effectiveness with respect to cost, overall utility and compliance.
8. **Are there implications for cost or time savings when mediation is used in child protection?** There are a variety of implications for cost and time savings when mediation is used in child protection. Benefits are both financial and outcome related with respect to the best interests of children. Improvement in judicial economy was noted such that reduced demands on a judge's time allowed for greater attention to other matters.

Michigan's pilot program evaluation affirms the usefulness and cost effectiveness of mediation in child protection cases.

## Executive summary

This program evaluation provides a retrospective look at the first three years of child protection mediation in seven Michigan pilot program sites. The seven mediation sites participate in Michigan's Permanency Planning Mediation Pilot (PPMP) Program. Michigan's federally-funded Court Improvement Program supported the pilot program.

Mediation for child protection cases has been implemented successfully in Michigan. Reports on referrals to mediation from 19 courts throughout the state revealed 338 cases were disposed between 1999 and 2001. Forty-nine of these cases were withdrawn or participants did not show up for scheduled mediations, resulting in 289 referred cases (85.5%) that ultimately were mediated. Pilot program sites still receiving funding for child protection mediation in 2004 served the 207 cases considered in this evaluation.

- In 2002 and 2003, an additional 287 cases were referred to mediation. (These cases are not included in this evaluation.)
- Two hundred thirty-three (n=233) of these cases (81.2%) were mediated.

The evaluation analyzed the characteristics and outcomes for 207 cases referred to mediation between 1999 and 2001. Of these 207 referred cases:

- 36 mediations were the result of multiple referrals to mediation for 13 families, in which different issues were mediated throughout the court case. The data for these families and mediations were excluded from the evaluation analysis.
- 171 (82.6%) were referred once.
- The remaining 17.4% of cases were referred but not mediated (n=33).

These figures indicate that the evaluation sample reflects a nearly identical proportion

of cases mediated as compared to the mediation rate compiled from the statewide program case census.

This evaluation report describes the findings of the evaluation of the cases referred for mediation at existing program sites during 1999, 2000 and 2001. Analysis included case characteristics and outcomes for 207 of the 289 referrals during this three-year period, accounting for 85.5% of the PPMP Program referrals. The eighty-two (82) cases not included were served by sites no longer funded and, therefore, deemed too difficult to recover data from and very early cases served in the beginning months of the PPMP Program implementation when record systems were incomplete because of ongoing development of forms and record keeping protocols.

The evaluation examined 207 mediation referrals, of which 171 represented individual, unduplicated families. This sample of 171 cases is the basis for the findings presented herein. The families with multiple referrals and mediations are an interesting subset of cases served by the program. However, analysis for these 13 families with 36 referrals is beyond the scope of this evaluation but will be examined and reported in the future as resources allow.

Thirty-three (n=33) of the 171 cases referred once to PPMP Programs (19.3%) were not mediated. The remaining 138 referrals (80.7%) were mediated.

## Summary of key findings

### Implementation and program statistics

1. **The PPMP Program was used at a variety of points in the child protection and legal process from pre-adjudication through completing petitions to adopt.** Although Michigan's legal system includes a hearing called the permanency planning hearing, the PPMP Program addresses cases at all stages of the legal process not just at the permanency planning hearing.

- 2. The PPMP Program was successfully implemented using two mediators at each session.** Mediators were most often community volunteers with extensive training and supervision—demonstrating the high level of skill needed but also revealing the effective use of talented volunteers. Mediator effectiveness was rated highly by all types of participants.
- 3. Mediation agreements were finalized in the great majority of cases.** In several cases where a signed agreement was not obtained, agreement was partially or fully achieved but parties objected to signing a document (with or without a final agreement, participants reported high rates of satisfaction). Based on pilot program reports, 338 cases have been disposed from 1999-2001. Forty-nine of these cases were withdrawn or participants did not show for mediation, resulting in 289 mediated cases. Agreements were reached in 82% of cases mediated in 2001; 83% in 2000; and in 76% in 1999. These rates are comparable or superior to rates from child protection mediation projects in other states. Favorable agreement rates continued in 2002 (87%) and 2003 (82%).
- 4. Cases were referred but not mediated for a variety of reasons.** The case may have been assessed as unamenable for mediation, often because of current domestic violence. The most commonly noted reason for no mediation was a conciliation that resolved the issues without a formal mediation. Conciliations with an agreement and without were distinguished for referrals not mediated. Additional reasons include either the initiator or respondent refused to mediate or the initiator or respondent failed to show. The initiator may have dismissed the case after referral was made. Or, the mediation coordinator or mediators may have been unable to contact or schedule the mediation.
- 5. There was a large increase in the number of cases disposed from 1999 to 2000** (75 to 129) and a slight increase from 2000-2001 (129 to 134). Figures for 2002 show continued growth, with 158 cases disposed. Disposed cases in 2003 dropped to 148.
- 6. Mediation agreements covered a broad range of actions,** reflecting the effective use of mediation with all types of child maltreatment and at all stages in the legal process. These agreements included creative solutions for family problems, with multiple services for families and detailed action items. The most frequently addressed challenge was visitation. Visitation is a crucial consideration for child well-being and for the facilitation of timely permanency decision-making. Other frequent issues included: child placement decisions, service plans, plea and petition language and parental counseling.

#### Permanency outcomes

- 1. The time to permanency, of any type,** was challenging to evaluate given the range of stages at which mediation occurs in the child protection legal process. For all cases referred for mediation, regardless of referral point, *the time from petition to any type of permanency averaged 17 months.* This figure compares favorably with AFCARS statistics; analogous federally-compiled statewide indicators of lengths of time to permanency as reported by the State of Michigan Family Independence Agency.
- 2. For all cases referred for mediation,** *the average time from mediation referral to any form of permanency averaged just over 13 months.* Following referral to mediation, family reunification was achieved on average in 11 months; adoptions were finalized on average in 15 months. Referral points for each form of permanency did not differ significantly from each other, i.e., adoption cases were not referred any later in the case than

either cases eventually reunified or in which guardianship was the final resolution.

3. **Comparison of these averages** for time to permanency to statewide statistics from Michigan's federally-reported AFCARS data, suggests that *permanency is achieved in a more timely manner in adoption cases*, with some modest time savings in foster care cases resulting in reunification.
4. **A significantly greater proportion of mediated cases had reached a permanency outcome of some type, as compared to non-mediated cases.** Comparison of cases referred to mediation and mediated revealed a statistically significant and substantially larger proportion ( $\chi^2=16.6$ ,  $p < .001$ ) of cases achieving permanency (85.2%) than was observed for cases that were referred but did not reach mediation (51.7%).
5. **Time from petition to permanency was shorter for mediated cases, compared to cases referred but not mediated.** For cases that had reached permanency, comparison was made between cases that had been mediated ( $n=106$ ) and those that had not ( $n=11$ ). Despite the large discrepancy in sample sizes, significant differences between these two groups were found for average length of time between referral to mediation and permanency. Differences were such that *mediated cases had an average time from petition to permanency of 12-1/2 months, and cases referred but not mediated reached permanency, on average, within 20-1/2 months of being referred to mediation.* The difference is statistically significant and substantial given the eight-month difference in achieving permanency ( $t = 2.59$ ,  $p < .01$ ).
6. **With regard to costs associated with the PPMP Program, the expense of the program is related to the time expended in preparing for, conducting and following up the mediation.** *The average amount of time expended to prepare for, conduct and follow up on a mediation from initiation*

*to end was 11 hours.* The average length of time for the mediation session itself was three hours. The use of volunteer mediators reduced the expenses associated with mediation.

7. **Legal costs and social service expenses related to mediation or traditional court work varied from county to county.** However, *the costs of a PPMP Program staffed with trained volunteers logically presents a cost-effective alternative to traditional court action.* A relatively low-cost mediation program, with unpaid mediators providing a service that potentially reduces the need for multiple court hearings and/or court expenses associated with hearings and trials, has the potential for substantial savings.
8. **Additional cost savings may be realized for cases in which mediation results in higher rates of parental compliance with service plans, court orders and mediation agreements than would otherwise occur.** Better compliance in turn may reduce time in costly out-of-home care or in negotiating visitation and living arrangements that may promote stability for children and fewer complications for child welfare workers.
9. **In addition to financial implications, child protection mediation also enhances Michigan's attainment of federal Child and Family Services Review requirements regarding family involvement, thereby protecting federal support for child welfare in the state.** A non-monetary benefit for children and families and the agencies that serve them accrues to the program because it promotes family responsibility and cooperation in a manner that reduces conflict and delay.
10. **In the great majority of cases in which a mediation agreement was finalized, there were high rates of parental compliance with the terms of the agreement.** This is not to say that mediation is related to increased compliance, only



that observed compliance was high overall. Adequate comparison data for non-mediated cases was not available for analysis.

**11. Michigan permanency planning mediation led to parents and other family members reporting they had been included in case planning and had their viewpoints considered during that process.**

**Benefits and challenges for permanency planning mediation programs**

The preponderance of feedback from mediation participants, mediators and judges spoke to the value of a highly-interactive process, in a less formal and less adversarial environment, with time dedicated to reaching an acceptable plan. With a clearer understanding of issues and viewpoints and with more information introduced than what is available in a traditional court hearing, an effective focus on problem solving could be maintained. This clarity ultimately saved time and promoted permanency. Mediation faced a number of challenges. For example, there could be:

- Disagreement and conflict during a mediation.
- Some participants—both family members and professionals—could be obstinate and unwilling to negotiate.
- Relationships between participants did not always improve through the mediation process.

To attain the benefits and appropriately manage the challenges, mediators need to be skilled and well-trained.

**Participant satisfaction outcomes**

The positive outcomes and participant experiences with mediation support the use of this approach to ensuring safety and permanency for children:

- 1. The majority of judges with experience with a PPMP Program reported very positive perspectives on mediation; some noted that mediation is not a panacea** for all problems, that careful planning is required and that work with stakeholders before the program begins is very important for program success.
- 2. Attorney satisfaction ratings, overall, were quite high.** Lawyer guardians ad litem, prosecuting attorneys and other attorneys in attendance at mediation sessions rated the experience and outcome at least as positively as child welfare professionals.
- 3. Child welfare professionals reported even higher rates of positive assessments of the mediators, the professionals' experiences in mediation and overall satisfaction.** Eighty-three percent judged the mediation outcome to be fair; 91% of FIA caseworkers reported they would use mediation again; 92% stated they would recommend mediation to someone else.
- 4. Family members reported that mediators treated everyone fairly, were neutral, listened carefully to them, were informative and organized;** a majority of family members reported that they were listened to by other participants, talked about the issues that were important to them, increased their understanding of other viewpoints, were treated with respect and reported fully participating in the mediation; and a majority of family members reported the mediation was helpful, the outcome was fair and indicated they would use mediation again and would recommend mediation to others.
- 5. Although relatively small in number, mediation participants who were comparatively less satisfied with their experience and the outcome** were other family members (other than parents and grandparents), children, FIA professionals (other than caseworkers), foster parents and attorneys for fathers (although the great majority reported satisfaction).



## Conclusions

Including mediation as a valued option in the range of legal responses to child maltreatment and protection is at least reasonable, if not preferable to other options.

Calculation of precise financial savings for Michigan as a result of permanency planning mediation may be elusive because of the multiple factors to be considered, hidden costs and county variability. However, concluding that there is a financial savings to be gained from mediation seems reasonable. There also are incalculable benefits associated with

improved family and professional satisfaction, construction of individualized and detailed treatment plans, plan compliance and attentiveness to the permanency needs of children.

Mediation in child welfare cases resulted in positive outcomes for children, families, professionals and systems without increasing the overall costs of the judicial and administrative handling of child welfare cases. Although difficult to precisely quantify, there may be actual cost savings with the use of volunteer mediators. Support for mediation services for child welfare cases seems warranted.

# Introduction

In 1993 the United States Department of Health and Human Services funded initiatives in each state to support family preservation, child maltreatment prevention and services to families at risk of maltreatment and subsequent out-of-home placements of children. This federal initiative, called the Court Improvement Program (CIP), was reauthorized in 1997 as part of the Adoption and Safe Families Act (ASFA). The CIP in Michigan is administered by the State Court Administrative Office (SCAO). Based on an assessment of Michigan's laws, policies and procedures that affect timely and effective case decisions, a number of recommendations were made for improvement. These recommendations included initiatives to strengthen Michigan's legal and service response to child maltreatment. Based on this assessment and subsequent information acquired with regard to best practices in child welfare, the Michigan CIP began the Permanency Planning Mediation Pilot (PPMP) Program.

The statewide assessment recommended that mediation be implemented at various points in time in child protection proceedings. Mediation is defined as *the process in which a neutral third party facilitates communication between two or more contending parties, assists in identifying issues and helps explore solutions to promote a mutually acceptable settlement*. Mediation projects focusing on permanency planning and addressing issues in relation to child abuse and neglect had already been implemented in a number of states, including California, Connecticut, Florida, Ohio, Oregon and Wisconsin.

In Michigan, the pilot projects are offered through local Community Dispute Resolution Program (CDRP) Centers, already supported by SCAO. The Michigan projects were originally introduced through eleven CDRP centers beginning in 1998. This study looks at the experiences of seven mediation program sites spanning over 14 counties. The PPMP Program sites offer mediation services to families and agencies prior to contested hearings, to nego-

tiate case plans, to resolve a range of case difficulties and to address permanency concerns. Mediation was identified as potentially helpful at many stages such as pre-adjudication, post-adjudication, permanency planning and post-termination.

Permanency planning mediation in Michigan involved the intervention of two highly-trained and supervised volunteer mediators to assist families and the child protection/welfare system (child protective caseworkers, agency attorneys and prosecuting attorneys) reach a mutually-acceptable settlement or agreement designed to insure the child's safety and promote permanency for children.

Permanency planning is *the systematic process of carrying out, within a limited period, a set of goal-directed activities designed to help children and youths live in families that offer continuity of relationships with nurturing parents or caretakers and the opportunity to offer lifetime relationships*. (Maluccio and Fein, 1983, p. 197). Consequently, permanency planning mediation was designed to identify, carry out and expedite the achievement of case goals that would result in a safe, permanent home for children in a timely manner. These goals included the safe preservation of the family unit (if possible), timely reunification with one's parents, guardianship with alternative caregivers such as relatives, or termination of parental rights leading to a timely adoption. These provisions of permanency planning were first delineated at the federal level in the Adoption Assistance and Child Welfare Act of 1980.

In broad terms, the stages of permanency planning mediation include:

1. **Referral** to mediation by a judge/referee or other stakeholder, such as a caseworker, attorney or family member;
2. **Preparation** for the mediation session including reviewing selected court documents, identifying and inviting relevant family members and professionals, analyzing the case and reviewing for